



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 15-31

BILL 7 (2015)

A BILL FOR AN ORDINANCE

TO REZONE LAND SITUATED AT AIEA, OAHU, HAWAII

BE IT ORDAINED by the People of the City and County of Honolulu.

SECTION 1. Zoning Map No. 7 (Halawa-Pearl City), Ordinance 86-133, is hereby amended as follows: Land situated at Aiea, Oahu, Hawaii hereinafter described, is hereby rezoned from the AG-1 Restricted Agricultural District to the R-5 Residential District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 9-8-060:009 (portion).

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.

DPP14Z-7.B15



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HONOLULU, HAWAII

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SECTION 2. This ordinance shall take effect upon its approval.

INTRODUCED BY:

(br)

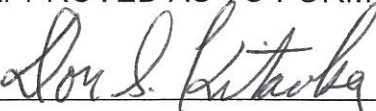
DATE OF INTRODUCTION:

FEB 11 2015

Honolulu, Hawaii

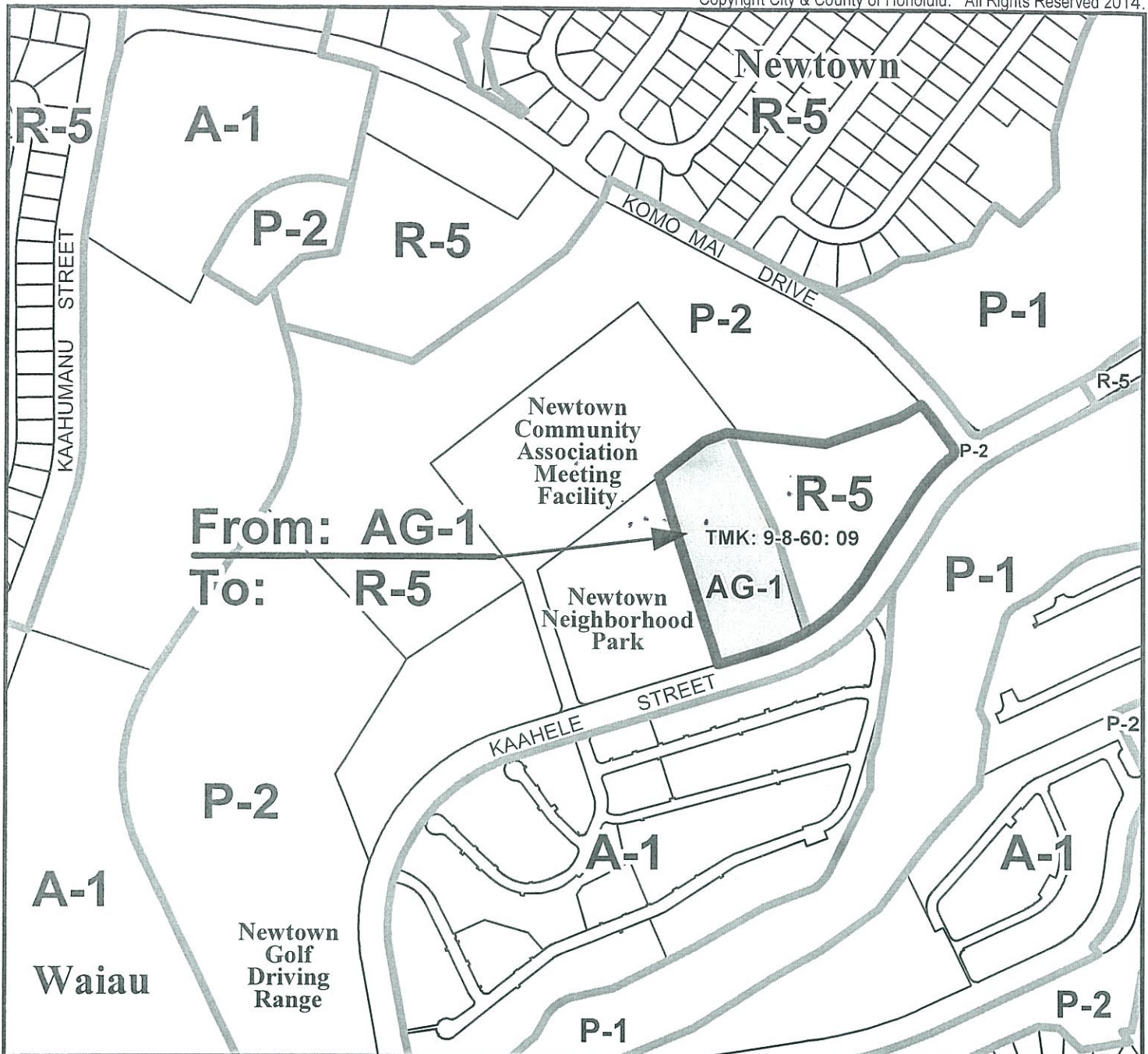
Councilmembers

APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel **DON S. KITAOKA**

APPROVED this 23rd day of July, 20 15.


KIRK CALDWELL, Mayor
City and County of Honolulu



**PORTIONS OF
ZONING MAP No. 7
(HALAWA - PEARL CITY)**

Land situated along Kaahele Street approximately 700 feet southwest of Komo Mai Drive and adjacent to the Newtown Neighborhood Park.

APPLICANT: Church of Jesus Christ of Latter-Day Saints

TAX MAP KEY(S): 9-8-60: Por. 09

FOLDER NO. : 2014/Z-7

LAND AREA: Approx. 3.1 Acres

PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
CITY AND COUNTY OF HONOLULU

PUBLIC HEARING: PLANNING COMMISSION

CITY COUNCIL



0 200 400

Scale in Feet



ORD. NO. 15-31

JAN 21 2015

MAY 06 2015

2014/Z-6

EFF. DATE: JUL 23 2015

EXHIBIT A

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

Doc T-9312266
DOCUMENT CT 195456
July 01, 2015 10:45 AM

DATE _____ TIME _____

LAND COURT SYSTEM

REGULAR SYSTEM

AFTER RECORDATION: RETURN BY MAIL () PICK UP (X)

Ashford & Wriston LLP
Attn. Robert Bruce Graham, Jr.
999 Bishop Street, Suite 1400
Honolulu, Hawaii 96813
(808) 539-0440

Tax Map Key Nos.: (1) 9-8-060:009
TCT 195,456

Total Pages: 7

UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING

THIS UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING (referred to herein as this "Unilateral Agreement" or "Declaration"), made this 29th day of June, 2015, by CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, the post office address of which is 60 E South Temple, Suite 1800, Salt Lake City, Utah 84111 ("Declarant");

WITNESSETH THAT:

WHEREAS, Declarant is the owner in fee simple of that certain parcel of land situated at Waimalu, District of Ewa, City and County of Honolulu, State of Hawaii, comprising approximately 7.06 acres, bearing Tax Map Key No. (1) 9-8-060:009, and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property") and desires to make the Property subject to this Unilateral Agreement; and

EXHIBIT B

WHEREAS, Declarant seeks to develop a second meeting facility (church) and a 250-stall parking lot on the Property (the "**Project**"); and

WHEREAS, the City Council (the "**Council**") of the City and County of Honolulu (the "**City**"), pursuant to the provisions of the Land Use Ordinance ("**LUO**"), Revised Ordinances of Honolulu 1990 ("**ROH**"), Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of a portion of the Property from the AG-1 Restricted Agricultural District to the R-5 Residential District (the "**zone change**"); and

WHEREAS, the portion of the Property subject to the zone change, consisting of approximately three (3) acres, is depicted as the shaded area designated as "AG-1" on the portion of Zoning Map No. 7 attached hereto as Exhibit "B" and incorporated herein by this reference (the "**zone change area**"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 7 (2015), was held by the Council on May 6, 2015; and

WHEREAS, the Council recommended by its Zoning and Planning Committee Report No. 222 that the said zone change be approved, subject to the conditions set forth below in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "**Rezoning Ordinance**").

NOW, THEREFORE, the Declarant hereby covenants and declares as follows:

1. **Affordable Housing.** Prior to any residential building permit approval for the zone change area, the Declarant shall execute an agreement to participate in an affordable housing plan acceptable to the Department of Planning and Permitting (the "**DPP**") in accordance with adopted rules. The agreement shall provide that if ten (10) or more residential units are constructed on the zone change area, no less than 30 percent (30%) of the total residential units must be affordable housing units.

2. Public Hearing. Prior to issuance of a conditional use permit (minor) for a church or other meeting facility on the zone change area, the Declarant agrees to a public hearing on its application, to be held by the DPP Director pursuant to LUO Section 21-2.40-1(c)(4).

3. Compliance with Other Governmental Requirements. Declarant acknowledges that approval of this zone change does not constitute compliance with other LUO or governmental agencies' requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that the final plans for the Project comply with all applicable LUO and other governmental agencies' provisions and requirements.

4. Annual Reports. Should Condition 1 of this Declaration [Affordable Housing] be triggered at any time, then thereafter, on an annual basis, Declarant shall submit a written status report to the DPP documenting its satisfaction and/or describing its progress toward complying with each condition of approval for this zone change. This status report shall be submitted to the DPP by December 31st of each year until such time as the DPP has determined that all conditions of approval have been satisfied. Failure to do so may result in delays in processing of further permits.

5. Noncompliance or Failure to Fulfill Any Conditions. In the event of noncompliance or failure to fulfill any of the conditions set forth herein, the Director of the DPP shall inform the Council and may seek civil enforcement or take appropriate action to terminate or stop the Project until applicable conditions are met, including but not limited to revoking any permits issued under this zone change and withholding issuance of other permits related to the Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

AND, Declarant hereby makes the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That the development of the Property shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Property, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Property and shall bind and constitute notice to all the parties hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Property, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, Declarant has executed this Unilateral Agreement and Declaration on the day and year first above written.



CORPORATION OF THE PRESIDING BISHOP
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah corporation sole

By [Signature]
Its AUTHORIZED AGENT
"Declarant"

STATE OF UTAH)
COUNTY OF SALT LAKE) SS

On JUNE 29, 2015 before me personally appeared
GLENN MCKAY,
AUTHORIZED AGENT of CORPORATION OF THE PRESIDING BISHOP
OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, to
me personally known, who, being by me duly sworn (or affirmed), did say that such person
executed the foregoing instrument as the free act and deed of such person, and if applicable in
the capacity shown, having been duly authorized to execute such instrument in such capacity.



[Signature]
Print Name: D. TODD EVANS
Notary Public, State of Utah

My Commission Expires: 06 SEPT 2016

EXHIBIT "A"
Tax map Key No. (1) 9-8-060:009

All of that certain parcel of land situate at Waimalu, District of Ewa, City and County of Honolulu, State of Hawaii, described as follows:

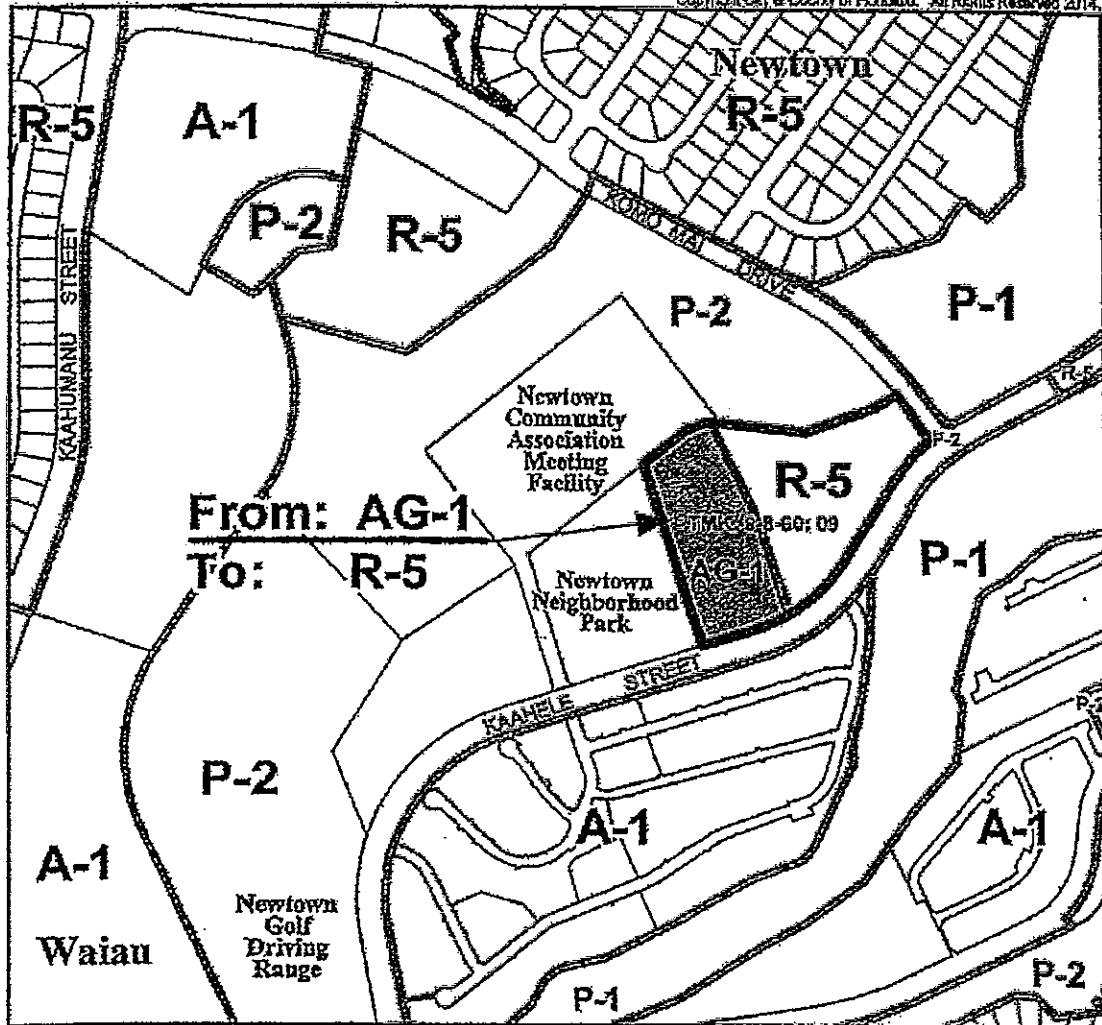
Lot 604, area 307,399 square feet, as shown on **Map 33**, filed in the Office of the Assistant Registrar of Land Court of the State of Hawaii with **Land Court Application No. 950 (amended)** of Edith Austin and others.

Being the land described in **Transfer Certificate of Title No. 195,456** issued to the Corporation of The Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole.

Being the land conveyed to the Corporation of The Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole, by warranty deed dated November 1, 1977, recorded in the Office of the Assistant Registrar of Land Court of the State of Hawaii as Land Court Document No. 845794.

EXHIBIT "B"

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PORTIONS OF ZONING MAP No. 7 (HALAWA - PEARL CITY)

Land situated along Kaahele Street approximately 700 feet southwest of Komo Mai Drive and adjacent to the Newtown Neighborhood Park.

APPLICANT: Church of Jesus Christ of Latter-Day Saints

TAX MAP KEY(S): 9-8-60: Por. 09

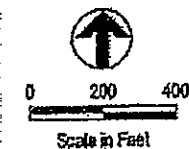
FOLDER NO.: 2014/Z-7

LAND AREA: Approx. 3.1 Acres

PREPARED BY: DEPARTMENT OF PLANNING & PERMITTING
CITY AND COUNTY OF HONOLULU

PUBLIC HEARING: PLANNING COMMISSION

CITY COUNCIL



ORD. NO.

2014/Z-6

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 15-31

BILL 7 (2015)

Introduced: 02/11/15

By: ERNEST MARTIN (BR)

Committee: ZONING AND PLANNING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT AIEA, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

| | | |
|----------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/18/15 | COUNCIL | BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA. 1 ABSENT: PINE. |
| 03/05/15 | ZONING AND PLANNING | CR-94 – 90-DAY EXTENSION OF TIME REQUESTED. |
| 03/11/15 | COUNCIL | CR-94 ADOPTED. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA. 1 ABSENT: PINE. |
| 04/25/15 | PUBLISH | PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER. |
| 04/30/15 | ZONING AND PLANNING | CR-154 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING. |
| 05/06/15 | COUNCIL/PUBLIC HEARING | CR-154 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. |
| 05/13/15 | PUBLISH | SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER. |
| 05/28/15 | ZONING AND PLANNING | CR-222 – BILL REPORTED OT OF COMMITTEE FOR PASSAGE ON THIRD READING. |
| 07/08/15 | COUNCIL | CR-222 ADOPTED AND BILL 7 (2015) PASSED THIRD READING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: MANAHAN. |

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN TAKAHASHI, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER